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PTO/SB/21 (08-00)

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<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/839,778
	Filing Date	April 20, 2001
	First Named Inventor	Herron et al.
	Group Art Unit	1641
	Examiner Name	G. Gabel
	Attorney Docket Number	0274.02-3278.1US (U-2541.1)

ENCLOSURES (check all that apply)		
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<input checked="" type="checkbox"/> Response to Restriction Requirement/Election of Species Requirement dated Sept. 11, 2002	<input checked="" type="checkbox"/> Petition for Extension of Time and Check No. 3436 in the amount of \$200.00	
<input type="checkbox"/> Amendment in response to office action dated	<input type="checkbox"/> Petition	
<input type="checkbox"/> Amendment under 37 C.F.R. § 1.116 in response to final office action dated	<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Additional claims fee - Check No. in the amount of \$	<input type="checkbox"/> Certified Copy of Priority Document(s)	<b>RECEIVED</b> DEC 17 2002 TECH CENTER 1600/2900
<input type="checkbox"/> Letter to Chief Draftsman and copy of FIGS. with changes made in red	<input type="checkbox"/> Assignment Papers (for an Application)	
<input type="checkbox"/> Transmittal of Formal Drawings	Remarks	
<input type="checkbox"/> Formal Drawings (        sheets)	The Commissioner is authorized to charge any additional fees required but not submitted with any document or request requiring fee payment under 37 C.F.R. §§ 1.16 and 1.17 to Deposit Account 20-1469 during pendency of this application.	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm or Individual name	Brick G. Power	Registration No. 38,581
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Date	December 11, 2002	

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PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In re Application of:**

Herron et al.

**Serial No.:** 09/839,778

**Filed:** April 20, 2001

**For:** DIAGNOSTIC DEVICE AND  
METHOD

**Confirmation No.:** 3373

**Examiner:** G. Gabel

**Group Art Unit:** 1641

**Attorney Docket No.:** 0274.02-3278.1US

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RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents  
Washington, D.C. 20231

Sir:

This communication is in response to the Restriction Requirement which was mailed on September 11, 2002, the one-month shortened statutory period for response to which expired on October 11, 2002. This response is being filed by December 11, 2002, with a petition for a two-month extension of time and the appropriate fee.

Claims 1-35 are currently pending in the above-referenced application and are subject to a restriction requirement. An election is hereby made, with traverse, to prosecute the invention of Group 1, including claims 1-21.

Please note that Group 1, which includes claims 1-21, has been identified as including claims which are drawn to a method for "simultaneous detection of analyte in a sample using a

waveguide, classified in class 436, subclass 164.” Independent claim 1, like independent claim 22, does not recite use of a waveguide and, thus, is not limited to use of a waveguide.

Accordingly, withdrawal of the restriction requirement is respectfully requested.

In addition, an early action on the merits of claims 1-35 is respectfully solicited.

Respectfully submitted,



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Date: December 11, 2002

BGP/djp

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